

Defendant

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## COMPLAINT AND DEMAND FOR JURY TRIAL

1           4.     Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

2                                   **PARTIES**

3           5.     Plaintiff is a natural person residing Pittsburgh, Pennsylvania 15227.

4           6.     Plaintiff is a “person” as that term is defined by 47 U.S.C. § 153(39).

5           7.     Defendant is a corporation that has its office located at 200  
6 Renaissance Center, Detroit, Michigan 48265.

7           8.     Defendant is a “person” as that term is defined by 47 U.S.C.  
8 §153(39).

9           9.     Defendant acted through its agents, employees, officers, members,  
10 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,  
11 representatives, and insurers.

12                                   **FACTUAL ALLEGATIONS**

13           10.    Plaintiff has a cellular telephone number that he has had for more  
14 than one year.

15           11.    Plaintiff has only used this number as a cellular telephone number.

16           12.    The phone number has been assigned to a cellular telephone service  
17 for which Plaintiff incurs a charge for incoming calls.

18           13.    Beginning in September 2014, and continuing through June 2015,  
19 Defendant called Plaintiff on his cellular telephone.  
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1           14. When contacting Plaintiff on his cellular telephone, Defendant used an  
2 automatic telephone dialing system and automatic and/or pre-recorded messages.

3           15. Defendant's telephone calls were not made for "emergency purposes."

4           16. Although Plaintiff has an account with Defendant, he revoked  
5 consent to be contacted in September 2014 when the calls began.  
6

7           17. Defendant heard Plaintiff's revocation of consent, but failed to update  
8 its records to stop the calls to Plaintiff's cellular telephone.

9           18. Rather, Defendant continued to call Plaintiff's cellular telephone  
10 without his express consent.  
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12           19. Thereafter, on multiple occasions, Plaintiff spoke with Defendant to  
13 tell them to stop calling him, but the calls continued.

14           20. In fact, on April 3, 2015, the undersigned's firm sent written  
15 correspondence to Defendant advising that Plaintiff was represented by counsel, to  
16 cease calling him, and revoking all prior authorization to call his cellular  
17 telephone.  
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19           21. Despite having received the written cease and desist letter on April 6,  
20 2015, Defendant continued to call Plaintiff's cellular telephone.  
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22           22. Most recently, Defendant called Plaintiff on June 24, 2015.  
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**DEFENDANT VIOLATED THE  
TELEPHONE CONSUMER PROTECTION ACT**

23. Plaintiff incorporates the forgoing paragraphs as though the same were set forth at length herein.

24. Defendant initiated multiple automated telephone calls to Plaintiff's cellular telephone using a prerecorded voice.

25. Defendant initiated these automated calls to Plaintiff using an automatic telephone dialing system.

26. Defendant's calls to Plaintiff were not made for emergency purposes.

27. Defendant's calls to Plaintiff, in and after September 2014, were not made with Plaintiff's prior express consent.

28. Defendant's acts as described above were done with malicious, intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights under the law and with the purpose of harassing Plaintiff.

29. The acts and/or omissions of Defendant were done unfairly, unlawfully, intentionally, deceptively and fraudulently and absent bona fide error, lawful right, legal defense, legal justification or legal excuse.

30. As a result of the above violations of the TCPA, Plaintiff has suffered the losses and damages as set forth above entitling Plaintiff to an award of statutory, actual and trebles damages.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, JOHN MCBRIDE, respectfully prays for a judgment as follows:

- a. All actual damages suffered pursuant to 47 U.S.C. § 227(b)(3)(A);
- b. Statutory damages of \$500.00 per violative telephone call pursuant to 47 U.S.C. § 227(b)(3)(B);
- c. Treble damages of \$1,500.00 per violative telephone call pursuant to 47 U.S.C. § 227(b)(3);
- d. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3); and
- e. Any other relief deemed appropriate by this Honorable Court.

**DEMAND FOR JURY TRIAL**

PLEASE TAKE NOTICE that Plaintiff, JOHN MCBRIDE, demands a jury trial in this case.

RESPECTFULLY SUBMITTED,

DATED: 07-02-15

KIMMEL & SILVERMAN, P.C.

By: /s/ Craig Thor Kimmel

CRAIG THOR KIMMEL

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